

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

STEVEN C. HEATON,

Plaintiff,

V.

**UNITED STATES POSTAL SERVICE,
Postmaster General,**

Defendant.

8:06CV2

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's second Motion to Appoint Counsel. (Filing No. 40). As was explained in the court's previous Order denying plaintiff motion to appoint counsel, the court cannot routinely appoint counsel in civil cases. In Davis v. Scott, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained:

'Indigent civil litigants do not have a constitutional or statutory right to appointed counsel.'... The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff's ability to investigate the facts and present his claim.

(Citations omitted). The plaintiff has capably presented the factual basis for the claims in this proceeding. I find that, at this stage in the case, appointment of counsel is not necessary to enable the plaintiff to pursue those claims. Therefore, the motion for appointed counsel, is denied.

SO ORDERED.

DATED this 16th day of February, 2007.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge